

Injuries, Injury-Related Leave, and Overtime in the Montgomery County Fire and Rescue Service

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Work-related injuries and illnesses in MCFRS can affect employees' ability to perform their full duties and generate costs for the County when injured employees' shifts must be backfilled with overtime. The Council requested this OLO study to better understand the programs available to employees in these circumstances and the relationship between work-related injury/illness and overtime.

Injury-Related Programs for MCFRS Employees

An injured MCFRS employee can use personal leave (sick, annual, etc) to recuperate from an injury, be placed on a light duty assignment, or be placed on disability leave/workers' compensation. After treatment, employees return to regular work duties or may be able to retire with disability benefits.

Program	Description
Light Duty	Temporary reassignment of employees with injuries or illnesses that prevent them from performing their full duties on an unrestricted basis.
Workers' Compensation and Disability Leave	Compensation for employees with service-connected injuries or illnesses that prevent them from working or reduce their wage earning capacity; employees unable to work are placed on disability leave. Employees on disability leave earn average weekly wage, including overtime wages.
Disability Retirement	Benefit allowing employees that are totally disabled to retire and receive a disability pension of between 33% and 70% of their final salaries.

Organizational Structures for Injury-Related Programs in MCFRS

Fire and Rescue Occupational Medical Services (FROMS) provides occupational health services to MCFRS personnel, including physicals, medical care, and administration of light duty and disability leave. FROMS also tracks and monitors all employees who cannot work due to ongoing medical conditions (the Medically Influenced Duty Status Program or MIDS). County staff and union representatives stated that MCFRS manages programs and benefits effectively.

Working with FROMS and managed by the Department of Finance's Division of Risk Management, a third-party administrator (TPA) provides worker's compensation claims administration. In July 2012, the County's TPA was replaced because it not meet the contract service delivery standards. During interviews for this report, OLO heard some specific concerns include delays in the administration of claims, a high rate of denial of claims, and noncompliance with Workers' Compensation Commission decisions. County staff report that the transition period was difficult but that the system is improving. Some interviewees stated that the concerns about the management of the workers' compensation program still exist.

Injury-Related Processes in MCFRS

All work-related injuries in MCFRS must be reported by a supervisor, regardless of whether an employee seeks treatment, and recorded in Risk MAP, MCFRS' injury and illness database. An employee may apply and be approved for administrative leave/temporary disability until a determination is made on disability status.

If an employee is placed on light duty or disability leave, he/she is evaluated by FROMS at pre-set intervals (30 or 60 days). Employees can be on disability leave for a maximum of 12 or 18 months, depending upon the employee's medical provider. According to County regulation, light duty assignments are supposed to be limited to six months; however, some departments allow longer assignments. All employees must undergo a Return to Work Evaluation before returning to regular duty.

MCFRS Injury Data

All injuries that occur while on-duty – regardless of severity and outcome – must be documented and investigated by MCFRS. During FY12-FY13, there were 1,067 injuries to MCFRS uniformed personnel; 43% of the injuries resulted in some lost time:

- Most injuries that resulted in lost time were sprains/strains (51%).
- 50% of lost time injuries occurred while the employee was on a call; 40% occurred during maintenance/housekeeping and fitness/other activities and 10% occurred during training-related activities.

In FY12-FY13, there were 178 approved MCFRS worker's compensation claims. The workers' compensation injuries showed similar patterns for type, body part, and source of injury.

Data on Injury-Related Hours in MCFRS

MCFRS does not have a single database that can track all injury-related leave and light duty hours. OLO had to reconcile numerous databases and found that the data within various databases was inconsistent, particularly historical data.

Overall, during FY12-FY13, MCFRS full-time uniformed employees had 249,000 hours of injury-related hours (disability leave and light duty); disability leave represented 15% of all leave in MCFRS and light duty represented 2% of all regular hours worked. MCFRS accounted for 51% of disability leave in the County.

OLO analyzed the injury-related hours for the 1,016 uniformed employees that were employed by MCFRS for the entirety of FY12 and FY13. Of that group, 41% (414 employees) had some injury-related hours, averaging 481 hours each. However, OLO found that a significant number of hours were accounted for by the top 5% of users – approximately 53%.

Injury-Related Hours for Full-Time Uniformed MCFRS Employees Employed the Entirety of FY12-FY13

	Total Hours	Number of Employees Who Used Leave	Average Hours Of Those Who Used Leave or Light Duty	Percent of All Hours Used by Top 5% of Users (50 Employees)	Average Hours by Top 5% of Employees who Used Type of Leave (50 Employees)
Temporary Disability Hours	54,218	351	154	21%	229
Disability Hours	92,929	164	567	68%	1,266
Light Duty Hours	52,193	125	418	58%	604
All Disability and Light Duty	199,340	414	481	53%	2,099

Relationship between Overtime and Injury-Related Hours. OLO examined the direct relationship between overtime hours and injury-related leave/light duty; this analysis does not account for outside factors that may affect the relationship. The analysis found that employees with high levels of overtime did not tend to have high levels of injury-related hours.

OLO Recommendations for Council Action

- #1: Request that the County Executive identify and implement strategies for reducing the time it takes employees who are on disability leave or light duty for long periods to return to work.
- #2: Request that the Executive Branch closely monitor the newly contracted third-party administrator (TPA) and provide the Council with updates.
- #3: Request that MCFRS review its data management systems and practices to improve uniformity and reporting capabilities. OLO also recommends that the County Executive report to the Council the findings of the CountyStat analysis of TeleStaff when completed.

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Chapter I. Authority, Scope, and Organization

A. Authority

Council Resolution 17-830, *FY 2014 Work Program for Office of Legislative Oversight*, adopted July 30, 2013.

B. Scope, Purpose, and Methodology

Existing research indicates that overtime and long work shifts can negatively impact employee health and increase the risk of occupational injuries and illnesses. A literature review by the U.S. Centers for Disease Control and Prevention found, “In 16 of 22 studies addressing general health effects, overtime¹ was associated with poorer perceived general health, increased injury rates, more illnesses, or increased mortality.”² Little evidence is available on the links between overtime and illness or injuries in firefighters specifically.

With the goal of ensuring firefighter and occupant safety, the Montgomery County Fire and Rescue Service (MCFRS) has adopted a minimum staffing level of emergency first response for MCFRS of 270 "seats", which is the number of field operations positions that must be filled 24/7 to provide the currently approved level of service. The number of career personnel required to fill this minimum decreases to 238 on nights and weekends as the other 32 seats are filled with volunteer staffing.

Because all positions are required to be filled at all times, MCFRS must use “backfill” overtime. Employees on leave (annual, sick, etc.) may need to be backfilled to maintain service levels in the County. MCFRS may also be required to use overtime to cover added operational needs, such as staffing for planned County events (County Fair, etc.) or significant emergency situations (storms, etc.).

One specific reason that may require MCFRS to backfill positions is disability leave and light duty, both of which result from employee injury or illness. All MCFRS firefighters are required to be able to perform certain physical tasks while on duty and if an employee cannot complete those required job duties, the position must be filled by another employee.

The relationship between MCFRS occurrences of injury/illness and the use of overtime has not been thoroughly explored. This report provides information and data on the use of overtime and the use of disability leave/light duty within MCFRS. Particularly, the report examines whether an employee with high levels of overtime is more likely to use disability leave or be placed on a light duty assignment. Additionally, the report analyzes the available data on the length of the disability leave/light duty process, which can influence the length of time that an employee is unable to perform his or her full duties.

C. Organization of Report

Chapter II, Organization Structures and Policy Frameworks for Injury-Related Programs in MCFRS, summarizes the organizational structure, regulations, and policies for administering programs and benefits for MCFRS employees with injuries or illness;

¹ Defined as work hours exceeding 40 hours per week

² Claire Caruso, Edward Hitchcock, Robert Dick, John Russo, and Jennifer Schmit, “Overtime and Extended Work Shifts: Recent Findings on Illnesses, Injuries and Health Behaviors,” U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Institute for Occupational Safety and Health, April 2004, p. iv, < <http://www.cdc.gov/niosh/docs/2004-143/pdfs/2004-143.pdf> > accessed October 15, 2013.

Chapter III, Administration of Injury-Related Programs for MCFRS Employees, outlines the procedures MCFRS and its employees must follow when an injury occurs, along with feedback on the process;

Chapter IV, Injury and Injury-Related Leave Data in Montgomery County Fire and Rescue Services, summarizes data on injury-related leave, injuries and the relationship between injuries and overtime hours worked within MCFRS;

Chapters V and VI, Summary of Findings and Recommendations, present OLO's findings and recommendations; and

Chapter VII, Agency Comments (to be included in the final report), will provide comments on the final draft report from the County's Chief Administrative Officer.

D. Acknowledgements

OLO received a high level of cooperation from the many individuals who helped with this report. OLO appreciates the information shared and insights provided by all who participated. In particular, OLO would like to acknowledge the time and expertise of each of the individuals listed:

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Chapter II. Organizational Structures and Policy Frameworks for Injury-Related Programs in MCFRS

Fire and Rescue Service (MCFRS) employees who incur injuries or illnesses that affect their ability to perform their regular job duties can access a variety of programs and benefits for medical treatment and wage replacement. Eligibility for benefits often depends on whether or not the injury or illness occurred while performing job duties (service-connected versus non service-connected).

The programs and benefits aimed at meeting the needs of employees with service-connected conditions are described in the table below and include light duty, workers' compensation/disability leave, and disability retirement.

Table 2-1. Programs Addressing Service-Connected Injuries and Illnesses Among MCFRS Employees

Program	Description
Light Duty	Temporary reassignment of employees with injuries or illnesses that prevent them from performing their full duties on an unrestricted basis.
Workers' Compensation and Disability Leave	Compensation for employees with service-connected injuries or illnesses that prevent them from working or reduce their wage earning capacity; employees unable to work are placed on disability leave.
Disability Retirement	Benefit allowing employees that are totally disabled as a result of either service-connected or non-service connected conditions to retire and receive a disability pension of between 33% and 70% of their final salaries.

In this chapter:

- **Section A, Organizational Structure of Disability/Light Duty Administration**, describes the organizational structure for administering programs and benefits for employees with service-connected disabilities; and
- **Section B, Regulations, Policies, Rules Regarding Injuries in MCFRS**, summarizes the laws and policies that govern the administration of benefits related to MCFRS injuries.

Non-Service Connected Injury and Illness

This chapter primarily focuses on injuries and illnesses that occur during (or are directly caused by) service-connected tasks. The programs and benefits may also be available for non-service connected injuries and illnesses, as referenced throughout the chapter.

A. Organizational Structure of Disability/Light Duty Administration

The Fire and Rescue Service, the Department of Finance, the Office of Human Resources (OHR), the Office of the County Attorney (OCA), the Montgomery County Employee Retirement Plans (MCERP) and the Maryland State Workers' Compensation Commission each have responsibilities associated with meeting the needs of employees with service-connected temporary and permanent disabilities. The following paragraphs describe the structure and responsibilities of each entity as they relate to disability leave and light duty.

Montgomery County Fire and Rescue Services. The MCFRS Bureau of Wellness Safety & Training, Wellness & Fitness Section (under the Division of Risk Reduction and Training) is responsible for the medical, fitness, and behavioral health of MCFRS personnel. The Bureau coordinates numerous programs including Substance Abuse Resources, Fitness, and the Infection Control Program. Two Bureau programs, Fire and Rescue Occupational Medical Services (FROMS) and the Medically Influenced Duty Status Program (MIDS) have primary responsibility for the administration of disability and light duty work.

FROMS. FROMS is a joint program between MCFRS and OHR to provide occupational health services to MCFRS personnel. FROMS provides:

- Entry level and annual physicals for all career and volunteer personnel;
- Medical care for work related injuries and illness;
- Follow up care for Bloodborne Pathogen Exposures; and
- Return to work exams.

The staff at FROMS includes a MCFRS Chief and Captain, two doctors, one physician's assistant, four nurses, one x-ray technician, and one nurse case manager. All medical staff are shared with OHR's Occupational Medical Services (OMS).

MIDS. The Medically Influenced Duty Status (MIDS) program works with MCFRS personnel who are injured or sick and cannot perform regular work. MIDS schedules and monitors all light duty assignments, assists with Fitness for Duty Evaluations and other return to work issues. MIDS creates a daily MIDS list, which identifies all employees that are not able to work due to an injury or illness. This program works with the Department of Finance's Division of Risk Management, OHR and the third-party administrator (TPA) on all work-related injuries and illnesses.

Office of Human Resources, Occupational Medical Services. Occupational Medical Services (OMS), in the OHR Health and Employee Welfare Division, provides health promotion services, work-related medical and safety hazard assessments and employee disability management. The Disability Program Manager in OMS formulates policy for employee disability management across OMS and FROMS.

Department of Finance, Division of Risk Management (Risk Management). Risk Management administers the County's comprehensive insurance and Self-Insurance Program (SIP), established in 1978. As part of the SIP, Risk Management administers the contract for the Third-Party Administrator (TPA), which provides Worker's Compensation claims administration services for the County.

Third-Party Administrator (TPA). The County's SIP management has been contracted to Managed Care Innovations, LLC since 2000. Worker's Compensation claims administration is completed by a subcontractor, known as the third-party administrator. The County's current TPA is CorVel Corporation (CorVel).

County staff report that over the past few years, there were issues with the County's previous TPA, including not providing services to the level required in the contract. As a result, the prior TPA was replaced by CorVel in July 2012. County staff report that the transition period was difficult (resulting in delayed claims); however, the services are improving.

In general, FROMS serves as a "middleman" between the TPA and the injured MCFRS employee. For employees who have retained legal representation, the TPA is not allowed any direct contact with the employee and in those cases, FROMS serves as the only contact between the TPA and the employee.

FROMS staff report that they typically contact the TPA two to three times daily as part of an established process to ensure that claims administration is being completed efficiently. In addition, the Division of Risk Management completes several oversight processes (in conjunction with MCI and CorVel) to manage the TPA's contract including: bi-weekly reviews of payment information; monthly reviews of Key Performance Indicators; Monthly Quality Assurance Reviews; Annual Reports, and biennial claims audits.

Office of the County Attorney. The Office of the County Attorney (OCA), working with the TPA, represents the County in Workers' Compensation claims and other personnel matters. If needed, FROMS supports the OCA during any Worker's Compensation claim issues by providing information and testimony.

Montgomery County Employee Retirement Plans. The Montgomery County Employee Retirement Plans (MCERP) administers the Montgomery County Employee Retirement System (ERS), of which uniform public safety employees are members. Among other retirement benefits, the ERS provides disability retirement benefits to employees that have incurred service-connected or non service-connected injuries or illnesses and cannot return to work.

Maryland Workers' Compensation Commission. The mission of the Maryland Workers' Compensation Commission is to "secure the equitable and timely administration of the provisions of the Maryland Workers' Compensation law on behalf of its customers, the injured workers and their employers, by providing an efficient forum for the resolution of individual claims."¹ The Commission receives all claim applications and is more heavily involved in compensation cases in which issues arise.

Communication among County Departments

FROMS and Risk Management, including the TPA, are consistently in contact with one another to administer the Worker's Compensation Program. Presently, there are bi-monthly MIDS meetings between FROMS, Risk Management, and CorVel, during which the current worker's compensation cases are discussed.

County staff report that as problems arise, whether related to an individual case or a larger process issue, direct communication (through email or phone) between FROMS, Risk Management, and the TPA (depending upon the situation) often leads to quick resolution.

However, County staff report that there are currently no regular meetings to discuss overall concerns/issues within the Worker's Compensation Program. As a result of matters brought up during the latest collective bargaining negotiations, Risk Management has established monthly meetings with the International Association of Fire Fighters and FROMS to discuss improvement of the Worker's Compensation Program.

B. Regulations, Policies, Rules Regarding Injuries in MCFRS

There are numerous laws and guidelines that dictate the policies and procedures that must be followed when an MCFRS employee is injured, on or off duty. The following summarizes some of those policies that are relevant to injured personnel.

¹ Annual Report Fiscal Year 2011, Maryland Workers' Compensation Commission

MCFRS Specific Policies. The MCFRS Policies and Procedures Manual contains policies, procedures, organizational charts, and other information for fire department administration. The following relate to employees injured on the job:

- No. 527, Non-Service Connected Light Duty. Policy 527 establishes policies and procedures for assigning light duty to personnel who sustained a non-service related injury or illness. Light duty assignment requests must be applied for by the employee.
- No. 528 Service-Connected Light Duty. Policy 528 establishes the policies and procedures for assigning light duty to personnel who sustained a service-connected injury or illness.
- No. 801, Worker's Compensation Claims. Policy 801 establishes the guidelines and procedures for submission of Worker's Compensation claims for MCFRS personnel.
- No. 812, Injury Investigation Team Procedures. Policy 812 states that an MCFRS Injury Investigation Team must investigate all critical injuries and fatalities. In addition, the IIT may investigate incidents where the potential for serious injury existed but no injury occurred.

In addition, MCFRS has numerous relevant general orders and directives:

- Fire Chief's General Order Number 10-16 states that all MCFRS work-related injuries/illnesses must be investigated. The injury should be investigated by the on-duty Safety Officer, Battalion Chief or appropriate Chief Officer. For all injuries, the supervisor must file an *Employer's First Report of Injury/Illness* and document the injury in the Risk Management Accountability Program (Risk MAP).
- The Montgomery County Fire and Rescue Commission also issued Executive Regulation 29-90, Worker's Compensation Claims, which establishes a uniform method for reporting and filing worker's compensation claims for on-duty injuries and related illnesses.

IAFF Local 1664 Collective Bargaining Agreement. The collective bargaining agreement (CBA) with the IAFF Local 1664 outlines numerous policies and procedures for represented fire personnel regarding injuries on and off the job. The CBA outlines the policies for use of administrative (for temporary disability), sick, and disability leave.

Montgomery County Policies. Montgomery County has extensive laws, policies, and guidelines for employees who are injured either on or off the job. The following provides highlights.

Personnel Regulations. The Personnel Regulations outline numerous policies and procedures for all County employees regarding injuries on and off the job. The Regulations outline the policies for use of administrative (for temporary disability), sick, and disability leave. The Regulations also address medical examinations and reasonable accommodations, hours of work, and overtime.

County Code. County Code Chapter 21, Fire and Rescue Services Regulations, includes policies and procedures specific for MCFRS personnel including:

- *Medical Standards for Operational Members and Candidates of MCFRS* that requires all County firefighters/rescuers (and candidates) complete a medical evaluation that complies with the provisions of National Fire Protection Association (NFPA) 1528, Standard on Occupational Medical Program for Fire Departments.
- *Workers' Compensation Claims* outlines the claim processes for MCFRS personnel.

County Code Chapter 33, Personnel, contains extensive rules and regulations for the eligibility, processes, case management practices, and appeals of injury-related and disability administration for all County departments. Some clauses include:

- An employee on disability leave will be paid the difference between the base County salary and the amount received under the Workers' Compensation Law for the period of temporary disability.
- Light duty assignments cannot last longer than six months.

Administrative Procedure 3-1, Recording and Report Keeping of Injuries. AP 3-1 establishes uniform reporting guidelines for accidents, injuries and property damage incidents involving Montgomery County Government employees, property, or equipment.

Maryland Worker's Compensation Act (Maryland Annotated Code, Title 9 of the Labor and Employment Article). Workers' Compensation is a state-mandated, County-paid program which provides payment for wage replacement and medical benefits to employees who sustain an "accidental personal injury arising out of and in the course of employment." Specifically, the Worker's Compensation Act may provide the following:

- Temporary Total Disability Benefits (TTD). If the injury resulted in a disability that prevents the employee from returning to work at all, the employee may receive temporary total disability payments. Generally, an employee receives compensation that equals two-thirds of the average weekly wage on the covered employee, up to a maximum of the average Maryland weekly wage.
- Temporary Partial Disability Benefits (TPD). If the injury results in the employee only able to perform limited work (resulting in lower wage earning capacity), the employee may be entitled to temporary partial disability benefits. The employee receives 50% of the difference between the average weekly wage and the wage earning capacity while temporarily partially disabled, subject to a maximum payment of 50% of the State average weekly wage.
- Permanent Total Disability Benefits (PTD). If the injury results in permanent injury, the employer must pay compensation that equals to two-thirds of the average weekly wage of the covered employee, subject to a maximum payment equal to the State average weekly wage.
- Permanent Partial Disability Benefits (PPD). If an injury results in some permanent impairment but still allows the employee to work, the employee is entitled to permanent partial disability benefits. The employee receives compensation that equals two-thirds of his average weekly wage at the time of the injury/illness capped at the maximums ordered by state law (with a minimum of \$50 weekly wage). If the employee cannot return to work, PPD benefits would still be paid.
- Medical/Hospitalization Benefits. An injured worker is entitled to any medical treatment and services required for recovery.

In addition, the Worker's Compensation Act may provide vocational rehabilitation services and training for up to 24 months; death and funeral benefits; and dependency benefits.

The law states that workers are not entitled to compensation for injuries or other conditions that are self-inflicted, result from an attempt to injure or kill another individual, or are the direct result of certain types of drug use. However, "absent substantial evidence to the contrary," injuries and other conditions are presumed to not be caused by these circumstances.²

Overtime Pay and "Wage Earning Capacity." According to COMAR 14.09.01.07, the average weekly wage for purposes of worker's compensation benefits is calculated using the average wage earned by the injured employee, including overtime wages, for the 14 weeks of employment prior to the injury.

In a 2011 Maryland Court of Appeals case, *Montgomery County v. Deibler*, the Court concluded that "wage earning capacity" (used in temporary partial disability benefit calculations) includes the capacity to earn overtime. The court also reaffirmed that overtime compensation was included in the definition of "wage" and "average weekly wage."

U.S. Americans with Disabilities Act. The Americans with Disabilities Act of 1990 (ADA) prohibits discrimination against persons with disabilities by employers, in the provision of State and local government services, and in public accommodations, commercial facilities, and transportation. The ADA includes provisions that relate to:

- **Medical Information Confidentiality.** Employers must keep any medical information they receive about employees confidential and can only disclose it under certain circumstances.³ U.S. Equal Employment Opportunity Commission guidance states that the ADA's confidentiality requirements apply to work-related injuries and workers' compensation claims.⁴
- **Reasonable Accommodations.** Employers are prohibited from denying employment opportunities to qualified job applicants or employees with disabilities based on the need to make "reasonable accommodations." Reasonable accommodations include actions such as job restructuring, reassignment to a vacant position, modified work schedules, and provision of equipment or interpreters, as long as they do not pose "undue hardships" such as a significant effect on the employer's financial resources.⁵
- **Return to Work.** U.S. Equal Employment Opportunity Commission guidance on the ADA states that employers may not discharge employees who are temporarily disabled as a result of occupational injuries, unless providing leave would create an undue hardship for the employer. The guidance also states that a workers' compensation determination that an employee is "totally disabled" or has a "permanent disability" alone cannot be used to refuse return to work to an employee. An employee that can perform the essential functions of his or her position with or without reasonable accommodations and would not pose a direct threat to the health and safety of others is entitled to return to that position; in addition, employers must reassign employees who can no longer perform the essential functions to another vacant position if available.⁶

² Maryland Annotated Code, Title 9 of the Labor and Employment Article, § 9-506 (f) (g)

³ United States Code, Title 42, Chapter 126, Section 12112 (d)

⁴ "EEOC Enforcement Guidance: Workers' Compensation and the ADA," U.S. Equal Employment Opportunity Commission, September 1996, < <http://www.eeoc.gov/policy/docs/workcomp.html> >, accessed September 30, 2013.

⁵ United States Code, Title 42, Chapter 126, Section 12111 (9)

⁶ Ibid.

Chapter III. Administration of Injury-Related Programs for MCFRS Employees

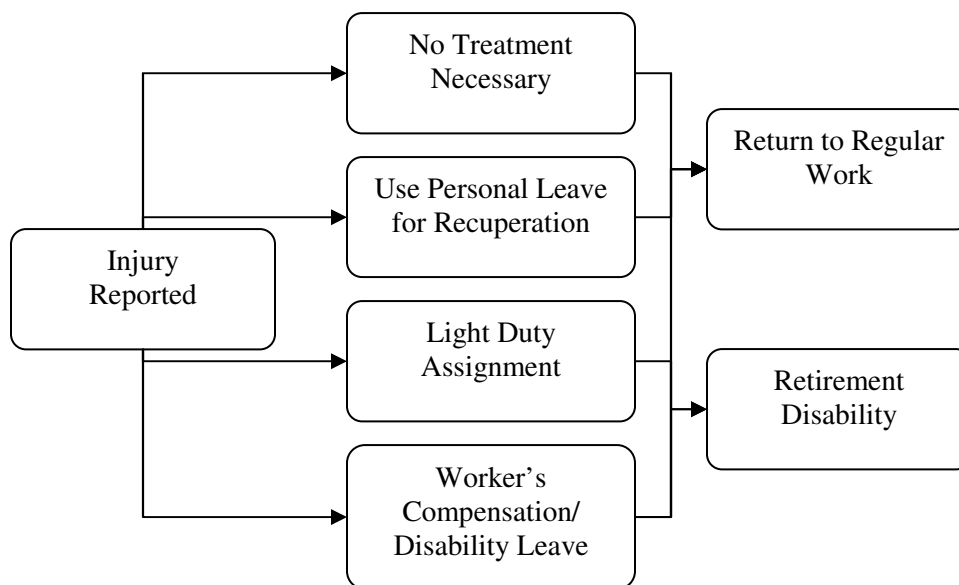
Firefighters work in varied environments and complete numerous job duties that can lead to a higher risk of injury on the job. As discussed in the previous chapter, there are extensive laws and policies that an MCFRS employee must follow when he/she is injured, on or off the job. This chapter summarizes the processes that an injured MCFRS employee must complete. Specifically, in this chapter:

- **Section A, Employee Injury and Illness Processes**, outlines the procedures MCFRS and its employees must follow when an injury occurs; and
- **Section B, Feedback**, provides a summary of feedback OLO heard from department and union representatives about injury-related programs in MCFRS.

A. Employee Injury and Illness Processes

This section provides an overview of the processes that occur when an MCFRS employee has an injury/illness. While the focus of this section is on service-connected injuries or illnesses, some processes may also apply to non-service connected injuries, as indicated.

The following chart provides a summary of the options available to employees who are injured on the job. This chart shows the various paths for the typical injured employees, but is not inclusive of all injured employees. In general, an injured MCFRS employee can use personal leave (sick, annual, etc) to recuperate from an injury, be placed on a light duty assignment, or be placed on disability leave/worker's compensation. After injury treatment and rehabilitation, employees return to regular work duties or, if unable to perform regular job duties, may be able to retire with disability benefits. The remainder of this section provides details about the reporting, processing, and monitoring of MCFRS employees with injuries or illness.



Injury Reporting. All work-related injuries in MCFRS must be reported by a supervisor, regardless of whether an employee seeks treatment. After an on-duty injury is reported, the supervisor will also take employee and witness statements to get an account of the incident. If an injury occurs off-duty and requires treatment but the employee does not report it, the employee may use sick leave for any recuperation needs.

In addition to fulfilling reporting requirements for Workers' Compensation, described on page 5, the supervisor will contact the Battalion Chief, the On-Duty Operations Chief, and the third-party administrator (TPA). The incident information is then loaded into the Risk Management Accountability Program (Risk MAP), MCFRS' injury and illness database. For injuries that are not going to be workers' compensation cases, the supervisor will contact MCFRS supervisors and FROMS, but not the TPA.

Once an injury is reported, the employee decides what course of action he/she would like to take, including:

- No treatment;
- Requesting a light duty assignment; or
- Applying for disability leave/workers' compensation.

Light Duty. Light duty is a temporary reassignment of an employee due to an injury, illness or condition which prevents the employee from unrestricted performance of a regular duty assignment. In order to request light duty for an on- or off-duty injury/illness, MCFRS employees must first submit a "Medical Evaluation of Work Status" form and inform supervisors of his/her request. Employees must then become certified as "Qualified for Limited Duty" by FROMS.

Once a light duty request has been made, the FROMS may approve it and assign the employee to an appropriate light duty assignment. MCFRS staff report that light duty assignments are often based on an employee's skill set. For service-connected injuries, the employee can choose to maintain his/her previously established schedule or go on a day work schedule. However, after six weeks, the work hours of the light duty assignment will be adjusted to coincide with the normal work hours of the light duty position, often a 10-hour per day, 4-day per week schedule. Such an adjustment usually results in a reduction in work hours if the employee was previously assigned to 24-hour shifts. In these cases the County adjusts the employee's hourly wage to allow them to receive the same annual salary while on light duty. For non-service connected injuries, the employee must shift his/her schedule to a day work immediately upon beginning light duty.

In addition, the employee can receive temporary partial disability (TPD) benefits through the workers' compensation program during periods working light duty. As described earlier, TPD benefits are based on "wage earning capacity," which is calculated from employee wages, including overtime pay, prior to the disability.

Through internal department policy, MCFRS uniformed personnel are limited to 18 months of light duty, compared with MCGEO and unrepresented employees who are limited to six months of light duty. For non-service connected light duty, employees must undergo a FROMS medical evaluation every 60 days. For light duty assignments that are service-connected, employees must:

1. Submit an update Medical Evaluation of Work Status form at 30 day intervals;
2. Contact supervisor on bi-weekly basis to update status (who in turn updates FROMS); and
3. Must be re-evaluated and re-certified by County Employee Medical Examiner every 180 days.

All light duty employees must undergo a Return to Work Evaluation, completed by FROMS, before returning to regular duty.

Disability Leave/Workers' Compensation Process. If an employee was injured on the job or suffered an illness related to the job, the employee can apply for disability leave/workers' compensation. The processes for applying for and receiving benefits involve the employee, the employee's supervisor, FROMS staff, and the third party administrator that provides claims administration services on behalf of the Department of Finance, Division of Risk Management.

Once an on-duty injury or illness is reported to a supervisor, the supervisor files a “First Report of Injury/Illness” with the TPA (through a website, www.mcsip.org, or telephone claims reporting service) and informs FROMS. For all claims, supervisors provide information on employee characteristics, employment information, and injury information. When Risk Management contracted for a new third-party administrator in July 2012, all supervisors were trained in the injury reporting system. MCFRS staff report that training on injury reporting and management is still available but not mandatory for newly hired or promoted supervisors.

When an employee initially reports an injury, he/she can apply for administrative leave/temporary disability. If approved by the Duty Operations Chief, the employee is placed on administrative leave until a determination is made on the employee’s disability status. If the employee retains representation, the TPA cannot directly discuss the claim with the injured worker. Instead, FROMS serves as an intermediary between the employee and the TPA.

The TPA determines the status of the employee – disabled, not disabled (claimed denied and treatment only), or needs further investigation– and completes a compensation memorandum summarizing its findings. The Workers’ Compensation Commission adjudicates disputes regarding eligibility for benefits, status determinations and other issues.

Worker’s Compensation Benefits. If the employee is determined to not be eligible for disability leave/workers’ compensation benefits, the County must adjust the employee’s leave balances or require the employee to reimburse the County for the administrative leave that the employee was granted for the injury on the job.

If the employee is determined to be disabled, the employee may receive the following benefits, in addition to medical costs:

- Total Temporary Disability (TTD). TTD benefits are granted when an employee cannot work are payable until the employee returns to work or reaches Maximum Medical Improvement. Benefits equal two thirds of the average weekly wage not to exceed 100% of state average weekly wage. The County also pays a supplement that equals the difference between normal County salary and the amount received under the workers’ compensation. Overtime pay is included in the calculation of wage earning capacity for TTD.
- Temporary Partial Disability (TPD). TPD benefits are granted when an employee can perform some work but not the full extent of his/her job. They are granted when an employee is placed on light duty, moved to another position, begins working part-time, or wants to continue secondary employment. TPD benefits pay for loss of wage earning capacity, including wages and overtime pay.
- Permanent Partial Disability (PPD). PPD benefits are awarded when an injured employee has met Maximum Medical Improvement and his/her condition cannot improve. MCFRS reports that most employees return to work when hit MMI. If not, the employee can return to work in some capacity (receiving PPD).

If the period of disability is fourteen days or less, the compensation benefit payments may not be allowed for the first three days of disablement except for payments for hospital, nursing or other medical services, funeral expenses or medicine. If the period of temporary disability lasts for more than fourteen days, then the compensation is allowed from the date of disability.

Treatment and Return to Work. If an employee selects a doctor from an approved network of physicians, the employee is eligible for disability leave for up to 18 months. If the employee selects a doctor out of network, he/she is eligible for disability leave for up to 12 months. FROMS staff report that most employees choose a network care provider.

While an employee is on disability leave, he/she must get evaluated by FROMS (by the employee medical examiner or EME) every 30 days. In addition, FROMS can request a medical evaluation at any point during disability leave. At the 12 or 18 month mark (depending upon which medical care was selected), FROMS requires that the employee makes a determination on long-term plans for the disability. In addition, FROMS will require an Independent Medical Evaluation (IME) to determine the long-term prognosis for the employee. Any determination by the County physician's will supersede determinations made by the employee's personal doctor.

Thirty days before disability leave expires, Risk Management sends a notice to the employee with two options for moving forward. If the employee applies for retirement, the employee can stay on disability leave until the retirement request is approved or denied. If an employee continues to work on disability beyond the 12 or 18 months, the employee can choose to use accrued sick leave, annual leave, or compensatory time to make up the difference between the Workers' Compensation benefit up unto the employee's base pay (as long as the employee remains disabled).

FROMS staff report that disability leave may last longer than 18 months due to processing delays. Once an employee is deemed ready to return to work, he/she must undergo a Return to Work exam through FROMS.

Disability Retirement. MCFRS employees who cannot perform required job duties after sustaining an injury or illness may apply for retirement disability. MCFRS evaluates all employees on the MIDS list for retirement as follows:

- For employees on light duty, MCFRS evaluates an employee's prognosis at one year (for non-service connected) and 180 days (for service connected) to determine whether to recommend retirement; and
- For employees on sick leave or disability leave, MCFRS evaluates an employee's prognosis at one year (for non-service connected) and 18 months days (for service connected) to determine whether to recommend retirement.

The Montgomery County Employee Retirement Plans (MCERP) is responsible for the administration of long-term disability (LTD) benefits (retirement disability) in the County. The monthly LTD benefits an employee receives replace a percentage of his/her final earnings of either 33%, 53% or 70%, depending upon whether the disability is service-connected or non-service connected and on whether or not it constitutes a disability under Social Security Administration standards.

An employee files an application (including medical records) for disability retirement with the Chief Administrative Officer (CAO) through MCERP. A Disability Review Panel, consisting of three physicians, reviews the retirement disability application, medical records, and if requested by the Panel, a medical evaluation. The Panel meets within 60 days of application. The Panel recommends (within 30 days of application receipt or 30 days of IME report receipt) to the MCERP whether the employee is eligible to receive LTD benefits. Within two weeks, the MCERP forwards the application to the County Attorney's Office for review. Once completed, the MCERP forwards a decision memo to the CAO requesting final decision and notifies the employee's department of the final decision.

B. Feedback

OLO interviewed County staff involved in administering programs and benefits for MCFRS employees that incur injuries and illnesses. Additionally, OLO interviewed representatives from the IAFF Local 1664 for this project. The following summarizes common themes heard.

- County staff and union representatives stated that MCFRS manages programs and benefits for employees with injuries and illnesses effectively and highlighted the importance and value of FROMS. Particularly, the FROMS model works well because most of the MCFRS' employees have the same job duty requirements and typically suffer from the same type of injuries.
- Some interviewees expressed concerns regarding the TPA's management of workers' compensation claims. Interviewees stated that there had been significant issues in the past with the TPA, resulting in TPA staffing turnover in January 2013. Specific concerns that OLO heard include general inefficiency, delays in the administration of claims, loss of files, a high rate of denial of claims, noncompliance with Workers' Compensation Commission decisions resulting in a significant number of penalties), and other actions preventing employees from receiving benefits or treatment are still present among some interviewees. County staff noted that FROMS must continually follow up with the TPA regarding individual cases in order to ensure that claims are processed efficiently and effectively.
- Interviewees also stated that delays in the process may occur when the injured employee hires an attorney, which prevents the TPA from having direct contact with the employee. Consequently, the first line supervisors have a lot of responsibility in regards to workers' compensation including providing information to the employee on what to expect, benefits and using the County's network for getting care, as well as coordinating with TPA/doctors on workability.

Chapter IV. Injury and Injury-Related Leave Data in Montgomery County Fire and Rescue Services

As described in Chapter III, MCFRS employees with service-connected conditions that prevent them from performing their full job duties may work light duty, use disability leave, and/or retire on disability. Employees with non-service connected conditions can also access some of these benefits or can use their sick/annual leave entitlements for recuperation. When an employee with a service-connected condition works light duty or uses disability leave, the full-duty position may have to be “backfilled” with overtime.

This chapter presents data on injury-related leave, injuries and the relationship between injuries and overtime hours worked within MCFRS. In this chapter, the term “injury-related hours” refers to light duty hours, temporary disability leave hours, and disability leave hours. “Injury-related hours” do not include sick leave, which may be used for non-service connected conditions, but cannot be directly tracked as injury related. The chapter is structured as follows:

- **Section A, Overall MCFRS Work Hour Data**, provides data on work hours, leave use, and overtime in MCFRS in FY12 and FY13;
- **Section B, MCFRS Injury Data**, summarizes MCFRS injuries by type, source, and body part and includes similar information on injuries resulting in Worker’s Compensation claims;
- **Section C, Injury-Related Hours in MCFRS**, reviews MCFRS employee hours on light duty and disability leave;
- **Section D, Relationships between Injury-Related Hours and Overtime in MCFRS**, discusses the correlations between injury-related hours and overtime;
- **Section E, Worker’s Compensation and Retirement Disability**, provides available data on the processing of Worker’s Compensation claims and retirement disability; and
- **Section F, Estimate of Overtime Costs Associated with Injury-Related Hours**, presents an OLO estimate of the overtime costs due to injury-related hours.

Data Reviewed. MCFRS does not track all injury or work/leave hour data in a single database. To better understand the impact of work-related injuries and illnesses on work hours in MCFRS, OLO analyzed data from MCTime (the County’s electronic time and attendance system), TeleStaff (the scheduling system used by MCFRS), and several internal MCFRS databases. OLO found some inconsistencies between MCTime and Telestaff data. OLO also reviewed Worker’s Compensation data from the Department of Finance and retirement disability data from MCERP.

The work hour, leave, and light duty data in this report, which OLO obtained from MCTime and TeleStaff,¹ includes only those MCFRS employees who are represented by the IAFF or are uniformed managers, including those who work 2,080, 2,184, and 2,496 hour per year schedules. OLO did not include MCFRS employees who are represented by MCGEO, are unrepresented or are MLS/directors in order to focus on employees who perform fire and rescue operations job functions.

OLO reviewed data from MCTime and TeleStaff for 1,259 employees who were employed with MCFRS during FY12 and/or FY13 for its analysis of work hours, leave and light duty. OLO grouped employees together from all work schedules because it is difficult to determine the schedule types for all employees. OLO found that employees can change schedule types without it being reflected in the databases. For example if an employee switches from 24-hour shifts to day work for a light duty assignment, it is not necessarily labeled in Telestaff or MCTime.

¹ While not widespread, OLO found some inconsistencies in the data between MCTime and TeleStaff; OLO used TeleStaff data for its analysis of light duty hours and MCTime data for its analysis of work hours and leave.

However, in order to analyze the data more accurately, OLO divided employees into the following groups:

Employee Group	Number of Employees	Referred to As
Employees who were employed with MCFRS for entirety of FY12-FY13	1,016	Two-year
Employees who were hired into MCFRS at some point during FY12-FY13	167	Hired during FY12 or FY13
Employees who left MCFRS at some point during FY12-FY13 (for various reasons)	76	Left during FY12 or FY13

Source: MCTime, compiled by OLO

In the “two-year” group, 724 employees were on 2,496 hours-per-year schedules (71%), 31 were on 2,184 hours-per-year schedules (3%), 59 were on 2,080 hours-per-year schedules (6%), and 202 changed schedule types (20%) during FY12-FY13. In the group of employees hired during FY12 or FY13, the average length of employment was nine months. For those who left employment during the two-year period, the average length of employment was twelve months.

Data on injuries and Workers’ Compensation claims in this chapter is not divided into employee groups and may include data on part-time employees because the data did not contain sufficient information on employee characteristics to group injuries or claims in this manner.

A. Overall MCFRS Work Hour Data

Full-time uniformed MCFRS employees accounted for a total of approximately 4.3 million regular work hours² and 1.2 million leave hours during FY12 and FY13. In addition, MCFRS employees worked about 788,000 hours of overtime during the two year period. The average amount of work and leave hours per employee is discussed later.

Table 4-1. Total Work Hours and Leave Used by All Full-Time Uniformed MCFRS Employees, FY12-FY13

Type	Hours
Regular Hours Worked	4,277,045
Overtime Hours	787,755
All Leave Hours	1,179,804
Sick Leave Hours	300,629
Temporary Disability	57,398
Disability Leave	115,472

Source: MCTime, compiled by OLO

² Includes hours worked by firefighters during swapped shifts and light duty hours

Comparison with Executive Branch. OLO compared the total hours of full-time, uniformed MCFRS employees to total hours worked by full-time employees in the County's Executive Branch (8,729 employees, including 2,870 public safety employees). It is important to note that most MCFRS employees included are scheduled to work 2,496 hours annually, compared to 2,080 hours for other Executive employees (20% more hours). Of the 8,729 total County employees, 33% are public safety employees (including MCFRS) and 14% are MCFRS employees.

The table below shows the percent of hours worked and leave taken by public safety and MCFRS employees in the County. The analysis shows that MCFRS accounted for 16% of all regular hours worked and 33% of all overtime hours.

Table 4-2. Percentages of Hours Worked and Leave Taken by Full-Time Public Safety and MCFRS Employees, FY12-FY13

	Total Hours- All Executive Branch	% Public Safety (including MCFRS)	% MCFRS
Regular Hours Worked	26,161,083	35%	16%
Overtime Hours	2,355,013	58%	33%
All Leave Hours	6,297,223	37%	19%
Temporary Disability	118,237	73%	49%
Disability Leave	221,561	73%	52%
Sick Leave	1,511,525	36%	20%

Source: MCTime, compiled by OLO

OLO also examined the prevalence of disability and temporary disability leave in County departments. Overall, there were approximately 340,000 hours of disability and temporary disability leave taken by full-time employees in the County during FY12 and FY13. Uniformed MCFRS employees accounted for 51% of all disability leave and temporary disability leave in the County during those two years.

OLO did not request light duty data from all other County departments and therefore did not compare the amount of light duty across County Government; data on regular hours worked includes hours worked on light duty. Additionally, because data on injury-related hours in the County have not been tracked consistently across time, OLO was unable to compare FY12-13 data with previous periods. Finally, OLO did not find comparable data from other jurisdictions.

B. MCFRS Injury Data

This section provides some background on injuries that occur within MCFRS among uniformed employees. All injuries that occur while on-duty – regardless of severity and outcome – must be documented and investigated. OLO received injury data directly from MCFRS. It is important to note that because of confidentiality, no names or identification numbers were provided with this data and therefore OLO was not able to confirm that the injured employees are part of the employee groups analyzed in other data throughout this chapter.

During FY12 and FY13, there were 1,067 injuries to MCFRS employees while on duty. Of these, approximately 43% resulted in any amount of lost time on the job.

Table 4-3. MCFRS Injuries by Result, FY12-FY13

Injury Status	Number	Percent
Resulted in Lost Time	457	43%
Completed Record Only	352	33%
Received Medical Treatment	227	21%
Received First Aid Only	31	3%
Total	1,067	100%

Source: Data provided by MCFRS

MCFRS also tracks the type of injury and injured body part. Overall, MCFRS data show that:

- By far, the most prevalent type of injury was a strain/sprain (44% of all injuries), followed by “other” (12% of all injuries), and bruise/contusion (11% of all injuries).
- The body parts most injured were the lower back (15% of all injuries) and knees (11% of all injuries).

MCFRS data show that 47% of injuries (505 injuries) occurred while the employee was on a call, with 30% of all injuries occurring during an EMS incident and 14% of injuries occurring during a firefighting incident. Another 439 injuries (41%) occurred during maintenance, housekeeping and other related activities; the largest injury category of this group was physical activity (individual sport), which accounted for 12% of all injuries. Finally, training and training-related activities accounted for the final 11% of MCFRS injuries.

Lost Time Injuries. Of the 1,067 total injuries, 457 (43%) of them resulted in the employee losing time on the job. Lost time injuries showed similar patterns to all injuries in MCFRS during FY12 and FY13:

- Sprain/strain were the most prevailing type of injury, accounting for 51% of all lost time injuries, followed by “other” injuries at 10% and bruise/contusions accounting for 8%.
- The lower back (21% of lost time injuries) and knees (11% of lost time injuries) accounted for the most injured body parts.

Similar to the data for all injuries, 50% of lost time injuries (181 injuries) occurred while the employee was on a call, with 25% of all injuries occurring during an EMS incident and 16% of injuries occurring during a firefighting incident. Another 181 injuries (40%) occurred during maintenance, housekeeping and other related activities; the largest injury category of this group was physical fitness activity (individual sport), which accounted for 10% of all lost time injuries. Finally, training and training-related activities accounted for the final 10% of MCFRS injuries.

Service Connected vs. Non-Service Connected Injuries

The Medically Influenced Duty Status (MIDS) list is a daily list that tracks those firefighters who are unable to perform regular duty responsibilities because of an injury or other condition. The MIDS data is the lone data source that can provide data on service-connected versus non-service connected injuries.

MCFRS provided OLO with MIDS data on employees who were on the list at any point during FY12 or FY13. However, MCFRS staff report that the compiled MIDS list for FY12-FY13 is incomplete due to database concerns and transfer issues.

According to the data provided, there were a total of 272 MCFRS employees on MIDS at any point during FY12 or FY13, accounting for 327 “incidences” of MIDS. Of all the MIDS occurrences, approximately 83% (270 occurrences) were the result of a service connected injury. OLO found that the average amount of days on the MIDS list varied slightly – with a non-service connected injury resulting in an average of 87 days on the MIDS list and a service-connected injury resulting in an average of 91 days.

On average, an employee was on the MIDS list for 90 days, with a majority of employees (240 employees or 73%) being placed on the MIDS list for less than 100 days. Only 2% were on the MIDS list for more than 500 days. It is important to note that days on the MIDS list are workdays, so a firefighter who is on a 24/48 schedule would actually only miss one day of “work” during three days on MIDS.

Worker’s Compensation Claim Injuries. There were 178 approved worker’s compensation claims in all of MCFRS (may include non-uniform and part-time employees) for injuries or illnesses occurring during FY12 and FY13. OLO found that the average age of a MCFRS worker’s compensation claimant was 39 years old, which is similar to the average age of all MCFRS employees reviewed (40 years old). Similar to the overall injury data summarized earlier, a breakdown of the types of claims shows that:

- 52% of claims were for strains, 14% were for sprains, and 8% were for contusions;
- The lower back area accounted for 20% of claims, with knees accounting for 17% and shoulders another 10%;

The two sources of injury that occurred most frequently were lifting (16%) and “non-classified” (15%).

C. Injury-Related Hours in MCFRS

As described above, OLO divided full-time, uniformed MCFRS employees into three groups in order to accurately describe the data on injury-related hours. The largest group, “Two-Year” employees, individuals employed with MCFRS for the entirety of FY12 and FY13, includes 81% of the employees studied and 90% of the total regular hours worked by the three groups. The group of employees that left during FY12 or FY13 was the smallest group with 6% of all employees and includes 2% of all regular hours worked.

The next table summarizes the total hours worked and leave used by all uniformed MCFRS employees during FY12 and FY13, by employee groups created by OLO. OLO found that, across all employee groups:

- There were approximately 249,000 hours of injury-related hours during FY12 and FY13;
- Disability leave (including temporary disability leave) represents 15% of all leave used by employees; and
- Light duty represented 2% of all regular hours worked.

Table 4-4. Overall Total and Average Work and Leave Hours in MCFRS, FY12-FY13

Employee Group	# of Employees	Regular Work Hours**	Overtime Hours	Light Duty Hours**	Leave Hours	Disability Leave Hours	Sick Leave Hours	All Injury-Related Hours
Total Hours								
Two-Year	1,016	3,868,560	759,554	52,193	1,085,178	147,147	270,812	198,097
Hired During FY12 or FY13	167	307,607	13,319	2,257	16,255	2,011	4,864	4,268
Left During FY12 or FY13	76	100,878	14,882	21,753	78,370	23,712	24,953	45,417
Total	1,259	4,277,045	787,755	76,203	1,179,804	172,870	300,629	247,782
Average Per Employee								
Two-Year	--	3,808	748	51	1,068	145	267	195
Hired During FY12 or FY13	--	1,842	80	14	97	12	29	26
Left During FY12 or FY13	--	1,327	196	286	1,031	312	328	598

*Averages include employees scheduled to work 2,496 hours, 2,184 hours, and 2,080 hours per year as well as employees whose schedule type changed during the two-year period.

**Regular work hours include light duty hours but exclude overtime

Source: MCTime, compiled by OLO

Breakdown of Injury-Related Hours. The table below summarizes the total and average number of injury-related hours by employee group. It should be noted that employees are counted in all leave categories in which they took leave. For example, there were 58 employees who used all three types of injury-related hours - temporary disability leave, disability leave, and light duty – and are accounted for in all three.

Table 4-5. Injury-Related Total Hours in MCFRS by Employee Group, FY12-FY13

	Total Hours	Average Hours Per Employee	Number of Employees Who Used Leave	Average Hours Of Those Who Used Leave
Two-Year Employees (1,016 employees)				
Temporary Disability Hours	54,218	53	351	154
Disability Hours	92,929	91	164	567
Light Duty Hours	52,193	51	125	418
All Disability and Light Duty*	199,340	196	414	481
Sick Leave	270,812	267	1003	270
Hired During FY12-FY13 (167 employees)				
Temporary Disability Hours	766	5	13	59
Disability Hours	1,245	7	5	249
Light Duty Hours	2,257	14	7	322
All Disability and Light Duty*	4,268	26	14	305
Sick Leave	4,864	29	96	51
Left During FY12-FY13 (76 employees)				
Temporary Disability Hours	2,415	32	11	220
Disability Hours	21,298	280	19	1,121
Light Duty Hours	21,753	286	24	906
All Disability and Light Duty*	45,466	598	33	1,378
Sick Leave	24,953	328	75	333

*Disability and light duty numbers do not add to "All Disability and Light Duty" because employees who used more than one type of leave are accounted for in each leave type.

Source: MCTime and TeleStaff, compiled by OLO

Employees Employed for Entirety FY12 and FY13. 1,016 employees reviewed by OLO were employed by MCFRS throughout FY12 and FY13. Over the two-year period, this group of employees worked an average of 3,808 hours and took 1,068 hours of leave. The average employee also worked about 748 hours of overtime in the two-year period. OLO examined the total hours of temporary disability leave, disability leave, and light duty for this group, shown in the table above. The data show that:

- 414 employees or 41% of the group used at least some temporary disability leave, disability leave or worked light duty hours, and the other 602 employees had zero hours in these categories;
- For the 414 employees with injury-related hours, the average number of injury-related hours was 481 over the two-year period, which represents between 10 and 12 weeks, depending on the employee's work schedule; and
- Of the 125 employees that worked light duty hours, 93 also used some temporary disability leave and/or disability leave.

Employees Hired During FY12-FY13. The second group is comprised of 167 employees hired during FY12 or FY13, with an average length of employment of nine months. In total, the employees in this group worked 308,000 regular hours and took 16,000 hours of leave. Only 14 employees in the group used or worked any amount of temporary disability leave, disability leave or light duty hours, and for these employees the average number of total injury-related hours was 305.

Employees that Left During FY12-FY13. The third group includes 76 employees who left MCFRS during FY12 or FY13. This group may include employees that retired, retired on disability or left for other reasons. Employees worked a total of 101,000 regular hours and used 78,000 hours of leave over the two-year period, with an average length of employment of 12 months. OLO found that 33 out of the 76 employees in the group had at least some injury-related hours during employment, with an average of 1,378 hours.

MCFRS Employees with High Amounts of Injury-Related Hours. OLO also examined employees that had relatively high amounts of temporary disability leave, disability leave and light duty hours combined to determine the extent to which a small group of employees contributes to overall levels of injury-related leave and light duty hours. Specifically, OLO examined the top 5% of employees in each group – a total of 63 employees across the three groups – with the highest numbers of injury-related hours (excluding sick leave) in comparison with other employees, as shown in the table below. The data show that:

- Overall, the top 5% of employees with injury-related hours accounted for 49% of all injury-related hours;
- Among the two-year group of employees, 105,000 hours or 53% of the temporary disability leave, disability leave and light duty hours can be attributed to 5% of employees; and
- Employees in the top 5% of the two-year group had an average 2,099 injury-related hours per employee over two years, compared with an average of 481 hours for all employees with injury-related hours.

Table 4-6. Injury-Related Hours Among The Top 5% of Employees with Injury-Related Hours, FY12-FY13

	Total Hours	Average Hours	Percent of All Hours
Two-Year Employees (50 Employees)			
Temporary Disability Leave	11,453	229	21%
Disability Leave	63,293	1,266	68%
Light Duty	30,182	604	58%
Total Disability and Light Duty	104,927	2,099	53%
Hired During FY12-FY13 (9 Employees)			
Temporary Disability Leave	555	62	72%
Disability Leave	1,245	138	100%
Light Duty	2,257	251	100%
Total Disability and Light Duty	4,057	451	95%
Left During FY12-FY13(4 Employees)			
Temporary Disability Leave	0	0	0%
Disability Leave	5,336	1,334	25%
Light Duty	7,242	1,810	33%
Total Disability and Light Duty	12,578	3,144	28%
Total (Three Groups - 63 Employees)			
Total Disability and Light Duty	121,562	1,930	49%

Source: MCTime, compiled by OLO

Length of Light Duty Assignments. Additionally, OLO examined the length of time that employees were on light duty assignments during FY12 and FY13. As discussed earlier, County regulations state that no light duty assignment can last longer than six months. OLO analyzed how long individual light duty assignments, defined as a continuous period of light duty by an employee³, lasted, and found:

- Between FY12 and FY13 there were 207 continuous light duty assignments among the 156 employees that had light duty hours;
- The average length of a light duty assignment was about 3 months;
- 50% of light duty assignments lasted approximately seven weeks or less;
- 16% of light duty assignments lasted over 6 months; and
- The top 5% of light duty assignments (11 out of 207 assignments) lasted an average of approximately 20 months.

D. Relationships between Injury-Related Hours and Overtime in MCFRS

OLO also investigated whether employee availability⁴, sick leave or injury-related hours are correlated with the numbers of overtime hours employees worked. In other words, OLO examined whether employees with large numbers of overtime hours tended to also have low levels of availability or high amounts of sick leave or injury-related hours. For this analysis, OLO looked exclusively at the group of full-time, uniformed employees that were employed by MCFRS for the entirety of FY12 and FY13.

For its analysis, OLO calculated the correlation coefficients between overtime and availability, overtime and sick leave, and overtime and injury-related hours. A correlation coefficient is a number between -1 and 1 that describes the relationship between two variables, such as overtime and availability. A correlation coefficient that is more than zero indicates a positive correlation, meaning that the variables move together and if one increases, so does the other. A negative correlation, indicated by a correlation coefficient that is less than zero, means that the two variables move in opposite directions, so that as one increases, the other decreases. The closer that the coefficient is to 1 (or -1), the stronger the correlation. A correlation coefficient of 0 indicates that there is no correlation.

As a caveat to the data presented below, it is important to note that the correlation coefficients listed below, while valuable, do not account for outside factors and therefore may not fully reflect the true relationships between variables. For example, overtime and injury-related hours may each be influenced by the age of the employee, but the correlation coefficients below do not control for this factor. OLO's analysis found the following:

- Overtime is somewhat positively correlated with availability, meaning that employees with a large numbers of overtime hours were somewhat more likely to also have higher levels of availability;
- The analysis does not show a substantial relationship between employees' overtime hours worked and sick leave used; and
- Overtime and injury-related hours are somewhat negatively correlated; employees with large numbers of overtime hours were somewhat less likely to have high numbers of injury-related hours.

³ These periods reflect the total length of time that the employee was assigned to light duty and can include days when the employee took leave; in addition, periods of light duty that began before the start of FY12 or ended after the end of FY13 include the total number of days, not just those that occurred within FY12-FY13

⁴ Employee availability is a measure of how many regular hours an employee worked in relation to leave hours used; it refers to the percentage of an employee's hours that were regular hours versus leave hours.

Correlation Coefficients Between Employees' Overtime Hours Worked and Availability, Sick Leave And Injury-Related Hours, FY12-FY13

Availability	Sick Leave	All Disability Leave	Light Duty	All Injury-Related Hours
0.20	-0.07	-0.18	-0.15	-0.21

Source: MCTime, compiled by OLO

E. Worker's Compensation and Retirement Disability

This section provides a brief summary of available data on the processing times of Worker's Compensation claims and the application for retirement disability for FY12 and FY13.

Worker's Compensation. OLO reviewed data on the time it takes between key steps of the Workers' Compensation process. Specifically, OLO examined the timeframes between (1) the date of injury; (2) the date that the report of the injury was received by the Third Party Administrator; (3) the date of the first benefit payment; and (4) the date the employee returned to work. As detailed earlier, the Third Party Administrator (TPA) is a contractor for the County and provides Workers' Compensation claims administration services. CorVel Corporation is the current TPA and replaced the previous TPA in July 2012. It is important to note that this data was collected during the administration of worker's compensation by both TPAs. The data show that:

- The average number of days between the date of injury and the date the report of injury was received by the TPA was 5, and for 89% of injuries this number was 3 days or less;
- The average number of days from the date the report was received to the first benefit payment was 82 or about 12 weeks, and for 50% of claims this number was 51 days or fewer; and
- The average number of days between the date of injury and the date of return to work (for those claims where a return to work date is available) was also 82, and for 50% of claims this number was 27 days or fewer.

Workers' Compensation Claim Reporting, Payment and Return to Work Times for MCFRS, FY12-FY13

Period	Days
Date of Injury to Date Report Received	5
Date Report Received to First Benefit Payment Date	82
Date of Injury to Date of Return to Work (153 claims)	82

Source: Data provided by Division of Risk Management

Finally, OLO compared the average number of days between the dates of injury and employees' return to work dates among injury categories with at least 10 claims, shown below. OLO found:

- Sprain injuries had the highest average number of days between the injury date and the return to work date at 125 days; and
- Strain injuries had the second highest average number of days at 87 days.

Average Days Between Injury Date and Return To Work by Injury Type

Injury Type	Average Days
Burns	32
Contusions	39
Sprains	125
Strains	87

Source: Data provided by Division of Risk Management

Currently, the dates of the medical treatment authorization request and approval, along with information on denials of claims that are eventually approved, are not tracked.

Retirement Disability. The administration of retirement disability shifted from the Office of Human Resources to Employee Retirement Plans (MCERP) in July 2012. MCERP reports that during FY13, there were 13 applications for disability retirement (all service-connected) among MCFRS personnel in the Employee Retirement System (ERS). Of the 13 applications, five disability retirements have been approved and the remaining eight applications are still pending. MCERP does not track the application or approval dates of employees who retire on disability and therefore OLO was not able to analyze process lengths.

F. Estimate of Overtime Costs Associated with Injury-Related Hours

As detailed earlier, full-time uniformed MCFRS employees used or worked a total of 249,073 hours of temporary disability leave, disability leave and light duty combined. These injury-related hours can generate overtime costs because employees on leave or assigned to light duty are not available to work their regular shifts. MCFRS has minimum staffing requirements, which demands that shifts not covered by regularly scheduled staff be “backfilled” with overtime after a certain threshold.

Each injury-related hour does not necessarily result in one hour of overtime. Shifts may be sufficiently staffed to accommodate some leave use among employees; if leave use is relatively low during a particular shift, the absence of a staff member who is assigned to light duty may not result in overtime during that shift. Additionally, employees assigned to light duty may have a different schedule type – usually 40 hours per week and 2,080 hours per year – than the schedule type for their full-duty post – most of which are 48 hours per week and 2,496 hours per year. As a result, 40 hours of light duty can translate into 48 hours that may need to be backfilled with overtime.

Furthermore, MCFRS does not track overtime “backfill” by the reason for the need of the backfill. Leave use and light duty are not the only reasons that overtime is used; MCFRS may require additional staffing during certain shifts to cover other leave, employee training, County events, and emergencies.

Therefore, the estimating of the cost of overtime resulting from injury-related hours is difficult. OLO completed a simple estimate and found that during FY12 and FY13, the potential overtime cost of injury-related hours, including disability leave and light duty, was approximately \$12.2 million over the two years.⁵ Because of all the concerns listed earlier and the fact that OLO was not able to track individual overtime hours directly to disability leave and light duty hours, OLO stresses that this is a imprecise estimate of the associated overtime costs.

⁵ To complete this estimate, OLO assumed a one hour to one hour ratio of injury-related leave hour to one hour of “backfill” needed. OLO multiplied the total number of hours on injury-related leave (249,073 hours) by the average hourly wage of an MCFRS employee. The average hourly wage (\$49.12) was calculated by dividing the actual paid overtime (approximately \$38 million, found in MCTime) by the total number of paid overtime hours (773,816 hours, found in MCTime).

Chapter V. Summary of Findings

Work-related injuries and illnesses in MCFRS can affect employees' ability to perform their full duties and generate costs for the County when injured employees' shifts must be backfilled with overtime. The Council requested this Office of Legislative Oversight (OLO) study to better understand the programs available to employees in these circumstances and the relationship between work-related injury/illness and overtime. This chapter provides a summary of OLO's findings.

MCFRS employees who incur injuries or illnesses can access a variety of programs and benefits, depending upon whether or not the injury or illness occurred while performing his/her job duties (service-connected versus non service-connected):

- Light Duty. Temporary reassignment of employees with injuries or illnesses that prevent them from performing their full duties on an unrestricted basis.
- Workers' Compensation and Disability Leave. Compensation for employees with service-connected injuries or illnesses that prevent them from working or reduce their wage earning capacity; employees unable to work are placed on disability leave.
- Disability Retirement. Benefit allowing employees that are totally disabled as a result of either service-connected or non-service connected conditions to retire and receive a disability pension of between 33% and 70% of their final salaries.

Data Reviewed. The work hour, leave, and light duty data in this report includes only those MCFRS employees who are represented by the IAFF or are uniformed managers, including those who work 2,080, 2,184, and 2,496 hour per year schedules. OLO did not include MCFRS employees who are represented by MCGEO, are unrepresented or are MLS/directors in order to focus on employees who perform fire and rescue operations job functions. OLO reviewed data for 1,259 employees who were employed with MCFRS during FY12 and/or FY13.

Administration and Process

FINDING #1: Numerous County departments administer injury-related benefits for County employees, and they communicate frequently amongst one another. Staff report that the FROMS model works well to monitor employees with injuries.

The Fire and Rescue Service, the Department of Finance, the Office of Human Resources (OHR), the Office of the County Attorney (OCA), the Montgomery County Employee Retirement Plans (MCERP) and the Maryland State Workers' Compensation Commission each have responsibilities associated with meeting the needs of employees with service-connected temporary and permanent disabilities.

MCFRS. The Bureau of Wellness Safety & Training, Wellness & Fitness Section has primary responsibility for the administration of disability and light duty work. Two Bureau programs, Fire and Rescue Occupational Medical Services (FROMS) and the Medically Influenced Duty Status Program (MIDS) track and monitor injuries and injury-related hours for MCFRS:

- FROMS provides occupational health services to MCFRS personnel, including physicals/return to work exams, medical care, and working with the TPA on disability leave;
- MIDS works with FRS personnel who are injured or sick and cannot perform regular work, including the scheduling and monitoring of all light duty assignments and other return to work issues.

County staff and union representatives stated that MCFRS manages programs and benefits effectively. Particularly, the FROMS model works well because most of the uniformity of employee job requirements and the types of injuries employees have.

The roles and responsibilities of other departments are summarized briefly below.

Department/Office	Role in Injury-Related Benefits
Office of Human Resources, Occupational Medical Services (OMS)	Formulates policy for employee disability management across OMS and FROMS
Department of Finance, Division of Risk Management (Risk Management)	Manages the contract for the Third-Party Administrator (TPA), which administers workers' compensation claims and whose role discussed in Finding #X
Office of the County Attorney (OCA)	Represents the County in Workers' Compensation claims and other personnel matters
Montgomery County Employee Retirement Plans (MCERP)	Provides disability retirement benefits to employees that have incurred service-connected or non service-connected injuries or illnesses
Maryland Workers' Compensation Commission	Adjudicates Workers' Compensation claims; typically, the Commission will only get involved in a case in which issues arise

Communication. All departments (and the TPA) contact one another frequently regarding work-related injuries and illnesses, especially when a problem/concern arises. In addition, there are bi-monthly meetings between FROMS, Risk Management, and CorVel, during which the current workers' compensation cases are discussed. However, staff report that there are currently no regular meetings to discuss overall concerns/issues/improvements within the Workers' Compensation Program.

FINDING #2: MCFRS has comprehensive processes in place for returning injured employees back to work.

In general, an injured MCFRS employee can use personal leave (sick, annual, etc.) to recuperate from an injury, be placed on a light duty assignment, or be placed on disability leave/worker's compensation. After injury treatment and rehabilitation, employees return to regular work duties or, if unable to perform regular job duties, may be able to retire with disability benefits. The following summarizes the processes for approval and monitoring of injured employees in MCFRS.

Injury Reporting. All work-related injuries in MCFRS must be reported by a supervisor, regardless of whether an employee seeks treatment. The incident information is loaded into the Risk Management Accountability Program (Risk MAP), MCFRS' injury and illness database. The supervisor also files the injury with the TPA. When an employee initially reports an injury, he can apply for administrative leave/temporary disability. If approved, the employee is placed on administrative leave until a determination is made on the employee's disability status.

Light Duty. Light duty is a temporary reassignment of an employee due to an injury, illness or condition which prevents the employee from unrestricted performance of a regular duty assignment. An employee must apply for light duty and be evaluated and approved by FROMS. For the first six weeks of a light duty assignment, the employee retains his work schedule; however, after six weeks, the hours will be adjusted to coincide with the normal work hours of the position. If the adjustment results in a reduction in work hours,

the County adjusts the employee's hourly wage to allow them to receive the same annual salary. According to internal MCFRS policy, no light duty assignment can last longer than 18 months for uniform fire personnel, compared with a limit of six months for unrepresented and MCGEO employees. However, some departments allow for longer periods of light duty. Additionally, employees assigned to light duty can receive temporary partial disability (TPD) benefits through the workers' compensation program. TPD benefits are based on "wage earning capacity," which is calculated from employee wages, including overtime pay, prior to the disability.

Disability Leave/Workers' Compensation Process. If an employee was injured on the job or suffered an illness related to the job, the employee can apply for disability leave/workers' compensation. The employee files for disability leave with the contracted TPA. If the employee retains representation, the TPA cannot directly discuss the claim with the injured worker. Instead, FROMS serves as an intermediary between the employee and the TPA. Once filed, the TPA determines the status of the employee – disabled, not disabled, or needs further investigation. If the employee is determined to be disabled, the employee may be entitled to wage replacement and medical cost payments.

Treatment and Return to Work. During treatment for injuries, employees must do the following:

- **Disability Leave** – The employee must be evaluated by FROMS every 30 days and can be requested at any other time. An employee is eligible for disability leave for up to 18 months if he uses an in-network doctor or 12 months if he chooses an out-of-network doctor. At the end of eligibility, FROMS requires that the employee make a determination about long-term employment plans.
- **Light Duty** – The employee must be evaluated by FROMS every 60 days for a non-service connected injury. For a service-connected injury, the employee must submit a medical evaluation work form every 30 days, contact his supervisor every two weeks, and be evaluated by FROMS every 180 days.

All disability and light duty employees must undergo a Return to Work Evaluation, completed by FROMS, before returning to regular duty.

Disability Retirement. MCFRS employees who cannot perform required job duties after sustaining an injury or illness may apply for long-term disability (LTD) benefits (retirement disability). To receive disability retirement, the employee files an application which (along with medical records and if requested, medical evaluation) is reviewed by a panel of physicians. The Panel then recommends approval or denial. If approved, the monthly LTD benefits include 33%, 53% or 70% of final earnings, depending upon whether the disability is service-connected or non-service connected and on whether it constitutes a disability under Social Security Administration standards.

FINDING #3: **Amid concerns about claim administration, the County replaced the third-party administrator, or the "TPA" (contracted to administer the workers' compensation program), in July 2012. Staff report that the system is improving, but concerns remain.**

The County's workers' compensation program is managed by CorVel Corporation, a third-party administrator (TPA) and subcontractor of Managed Care Innovations, the contractor responsible for the administration of the County's Self Insurance Program. In July 2012, the County replaced the previous TPA because the services provided did not meet the level of service required in the contract. The Division of Risk Management is responsible for the administration of the TPA's contract.

During interviews for this project, OLO heard some specific issues with the County's previous TPA including delays and inefficiency in the administration of claims, a high rate of denial of claims, noncompliance with Workers' Compensation Commission decisions, and other actions preventing employees from receiving benefits or treatment.

County staff report that the transition period was difficult (resulting in delayed claims) but that the system is improving. Some other interviewees stated that the concerns about the management of the workers' compensation program still exist.

Oversight of the TPA. FROMS staff report that they are in constant contact with the TPA (two to three times a day) to ensure that claims administration is being completed efficiently. In addition, the Division of Risk Management completes several oversight processes (in conjunction with MCI and CorVel) to manage the TPA's contract including: bi-weekly reviews of payment information; monthly reviews of Key Performance Indicators; Monthly Quality Assurance Reviews; Annual Reports, and biennial claims audits. In addition, Risk Management has established monthly meetings with the IAFF and FROMS to discuss issues and concerns regarding the program.

FINDING #4: Overtime wages earned prior to the injury or illness can affect the calculation of benefits provided to employees under the Maryland Workers' Compensation Act. Additionally, benefits vary depending on whether the employee is partially or totally disabled and whether the disability is temporary or permanent.

The Workers' Compensation Act establishes the following benefits for employees that have incurred service-connected injuries or illnesses:

- Temporary Total Disability Benefits (TTD). If the injury resulted in a disability that prevents the employee from returning to work at all, the employee may receive temporary total disability payments. Generally, an employee receives compensation that equals two-thirds of the average weekly wage on the covered employee, including overtime wages and up to a maximum of the average Maryland weekly wage.
- Temporary Partial Disability Benefits (TPD). If the injury results in the employee only being able to perform limited work (resulting in lower wage earning capacity), the employee may be entitled to temporary partial disability benefits. The employee receives 50% of the difference between the average weekly wage and the wage earning capacity while temporarily partially disabled, subject to a maximum payment of 50% of the State average weekly wage.
- Permanent Total Disability Benefits (PTD). If the injury results in permanent injury, the employer must pay compensation that equals to two-thirds of the average weekly wage of the covered employee, subject to a maximum payment equal to the State average weekly wage.
- Permanent Partial Disability Benefits (PPD). If an injury results in some permanent impairment but still allows the employee to work, the employee is entitled to permanent partial disability benefits. The employee receives compensation that equals two-thirds of his average weekly wage at the time of the injury/illness capped at the maximums ordered by state law (with a minimum of \$50 weekly wage). If the employee cannot return to work, PPD benefits would still be paid.
- Medical/Hospitalization Benefits. An injured worker is entitled to any medical treatment and services required for recovery.

Overtime Pay and "Wage Earning Capacity." According to the Code of Maryland (COMAR 14.09.01.07), the average weekly wage for purposes of worker's compensation benefits is calculated using the average wage earned by the injured employee, including overtime wages, for the 14 weeks of employment prior to the injury.

In a 2011 Maryland Court of Appeals case, *Montgomery County v. Deibler*, the Court concluded that "wage earning capacity" (used in temporary partial disability benefit calculations) includes the capacity to earn overtime. The court also reaffirmed that overtime compensation was included in the definition of "wage" and "wage-earning capacity."

MCFRS Injury and Injury-Related Leave Data

FINDING #5: Uniformed MCFRS employees used approximately 340,000 hours of disability and temporary disability leave in FY12 and FY13, accounting for 51% of all disability leave and temporary disability leave in the County.

Overall, full-time uniformed MCFRS employees accounted for a total of approximately 4.3 million regular work hours, 1.2 million leave hours, and 788,000 overtime hours during FY12 and FY13. OLO also examined the prevalence of disability and temporary disability leave in County departments and found that there were approximately 340,000 hours of disability and temporary disability leave taken by full-time employees in the County during FY12 and FY13. It should be noted that most MCFRS employees work 2,496 hours per year, compared with 2,080 hours for other County employees.

Total Work Hours and Leave Used by County Employees, FY12-FY13

Type	All County Government	MCFRS	% MCFRS
Regular Hours Worked	26,161,083	4,277,045	16%
Overtime Hours	2,355,013	787,755	33%
All Leave Hours	6,297,223	1,179,804	19%
Sick Leave Hours	1,511,525	300,629	20%
Temporary Disability	118,237	57,398	49%
Disability Leave	221,561	115,472	52%

OLO did not request light duty from all other County departments and therefore did not compare the amount of light duty across County government.

FINDING #6: There were 1,067 injuries to MCFRS uniformed personnel during FY12-FY13; 43% of the injuries resulted in some lost time. About half of all injuries occurred while an employee was on a call.

All injuries that occur while on-duty – regardless of severity and outcome – must be documented and investigated by MCFRS. According to MCFRS data, there were 1,067 injuries during FY12-FY13, including 457 injuries that resulted in lost time. The following is a breakdown of lost time injuries by injury type, injured body part, and source of injury:

- Sprain/strain were the most prevailing type of injury, accounting for 51% of all lost time injuries, followed by “other” injuries at 10% and bruise/contusions accounting for 8%.
- The lower back (21% of lost time injuries) and knees (11% of lost time injuries) accounted for the most injured body parts.
- 50% of lost time injuries occurred while the employee was on a call (including 25% occurring during an EMS incident and 16% occurring during a firefighting incident). Another 181 injuries (40%) occurred during maintenance/housekeeping, fitness activities, and other related activities. Finally, 46 injuries (10%) occurred during training-related activities.

Worker’s Compensation Claim Injuries. There were 178 approved worker’s compensation claims in MCFRS during FY12-FY13. The workers’ compensation injuries showed similar patterns as all MCFRS injuries for type, body part, and source of injury.

Service-Connected vs. Non-Service Connected Injuries. The Medically Influenced Duty Status (MIDS) list is a daily list that tracks those firefighters who are unable to perform regular duty responsibilities because of an injury. The MIDS data is the lone data source that can provide data on service-connected versus non-service connected injuries. The data show that approximately 83% of all occurrences in FY12-FY13 were the result of service-connected injuries. However, MCFRS staff report that the compiled MIDS list is incomplete due to database concerns and transfer issues.

FINDING #7: During FY12-FY13, 414 (41%) of MCFRS uniformed personnel who were employed the entirety of FY12-FY13 had some injury-related hours, averaging 481 hours.

During FY12-FY13, MCFRS uniformed personnel that OLO reviewed (1,259 employees) worked approximately 4.2 million regular hours and 788,000 overtime hours while taking 1.2 million hours of leave. Of that, MCFRS had approximately 249,000 hours of injury-related hours; disability leave (including temporary disability leave) represented 15% of all leave used by employees; and light duty represented 2% of all regular hours worked.

Total Work and Leave Hours in MCFRS, FY12-FY13

Type of Hour	Total
Regular Work Hours	4,277,045
Overtime Hours	787,755
Leave Hours	1,179,804
Sick Leave Hours	300,629
All Injury-Related Hours	249,073
Light Duty Hours	76,203
Disability Leave Hours	172,870

Employees who were employed by MCFRS throughout FY12 and FY13 (1,016 employees) worked an average of 3,808 regular hours, took 1,068 hours of leave, and worked 748 hours of overtime. As shown below, 414 employees in this group had some injury-related hours, averaging 481 hours.

Injury-Related Hours for MCFRS Employees Employed the Entirety of FY12-FY13

	Total Hours	Number of Employees Who Used Leave	Average Hours Of Those Who Used Leave
Two-Year Employees (1,016 employees)			
Temporary Disability Hours	54,218	351	154
Disability Hours	92,929	164	567
Light Duty Hours	52,193	125	418
All Disability and Light Duty	199,340	414	481

For the other two groups of employees OLO reviewed:

- Employees Hired During FY12-FY13 (167 employees). Fourteen employees in this group used or worked any amount of injury-related hours, for an average of 305 hours.
- Employees that Left During FY12-FY13 (76 employees). 33 out of the 76 employees in the group had at least some injury-related hours during employment, with an average of 1,378 hours.

FINDING #8: The top five percent of two-year employees with injury-related hours accounted for 53% of all injury-related hours.

OLO examined the top 5% of employees with the highest numbers of injury-related hours (excluding sick leave) for MCFRS uniformed personnel who were employed the entirety of FY12-FY13 and found that the group accounts for approximately 53% of all injury-related hours. Employees in the top 5% of the two-year group had an average 2,088 injury-related hours per employee over two years, compared with an average of 481 hours for all employees with injury-related hours.

Injury-Related Hours Among The Top 5% of Two-Year Employees with Injury-Related Hours, FY12-FY13

	Total Hours	Percent of All MCFRS Hours	Average Hours by Employees who Used Type of Leave (414 Employees)	Average Hours by Top 5% of Employees who Used Type of Leave (50 Employees)
Temporary Disability Leave	11,453	21%	154	229
Disability Leave	63,293	68%	567	1,266
Light Duty	29,659	58%	418	604
Total Disability and Light Duty	104,404	53%	481	2,099

The length of light duty assignments showed similar patterns. Overall, the average length of a light duty assignment during FY12-FY13 was three months; however, the top 5% of light duty assignments lasted an average of 20 months.

Employees who were hired during FY12-FY13. The nine employees in the top 5% of injury-related hours for employees who were hired during the study period accounted for 95% of the injury-related leave hours, with an average of 451 hours of injury-related leave.

Employees who left during FY12-FY13. The four employees in the top 5% of injury-related hours for employees who left during the study period accounted for 28% of the injury-related leave hours, with an average of 3,144 hours of injury-related leave.

FINDING #9: MCFRS employees with large numbers of overtime hours were somewhat less likely to have high numbers of injury-related hours.

OLO examined whether employee availability¹, sick leave or injury-related hours are correlated with the numbers of overtime hours employees worked. The correlation² only reflects the direct relationship between two variables and does not account for outside factors that may affect the relationship.

¹ Employee availability is a measure of how many regular hours an employee worked in relation to leave hours used; it refers to the percentage of an employee's hours that were regular hours versus leave hours.

² A correlation coefficient is a number between -1 and 1 that describes the relationship between two variables, such as overtime and availability. A correlation coefficient that is more than zero indicates a positive correlation, meaning that the variables move together and if one increases, so does the other. A negative correlation, indicated by a correlation coefficient that is less than zero, means that the two variables move in opposite directions, so that as one increases, the other decreases. The closer that the coefficient is to 1 (or -1), the stronger the correlation. A correlation coefficient of 0 indicates that there is no correlation.

OLO looked exclusively at the group of full-time, uniformed employees that were employed by MCFRS for the entirety of FY12 and FY13 and found:

- Overtime is somewhat positively correlated with availability, meaning that employees with a large numbers of overtime hours were somewhat more likely to also have higher levels of availability;
- The analysis does not show a substantial relationship between employees' overtime hours worked and sick leave used; and
- Overtime and injury-related hours are somewhat negatively correlated, meaning that employees with high levels of overtime did not tend to have high levels of injury-related hours.

Correlation Coefficients Between Employees' Overtime Hours Worked and Availability, Sick Leave And Injury-Related Hours, FY12-FY13

Availability	Sick Leave	All Disability Leave	Light Duty	All Injury-Related Hours
0.20	-0.07	-0.18	-0.15	-0.21

FINDING #10: **The average number of days from the date a claim report was received by the third-party administrator to the first benefit payment date about 12 weeks. OLO was not able to calculate the average length of time for the disability retirement process.**

Workers' compensation claims are administered by the contracted third party administrator. OLO analyzed the processing times of the 178 workers' compensation claims in MCFRS for FY12-FY13 (filed under both the previous and current TPAs). The data show that:

- The average number of days between the date of injury and the date the injury report was received by the TPA was 5, and for 89% of injuries this number was 3 days or less;
- The average number of days between the date a claim report was received by the TPA to the date of the first benefit payment was 82 days, with 50% of claims being processed in 51 days or fewer; and
- The average number of days between the date of injury and the date of return to work (for those claims where a return to work date is available) was also 82, and for 50% of claims this number was 27 days or fewer.

The dates of the medical treatment authorization request and approval, along with information on initial denials of claims that are eventually approved, are not tracked.

Retirement Disability. MCERP reports that during FY13, there were 13 applications for disability retirement (all service-connected) among MCFRS personnel. Of the 13 applications, five disability retirements have been approved and the remaining eight applications are still pending. MCERP does not track the application or approval dates of employees who retire on disability and therefore OLO was not able to analyze process lengths.

FINDING #11: MCFRS does not have a single database that can track all information on injury-related leave and light duty. OLO also found that the data within various databases was inconsistent.

MCFRS does not track all injury or work/leave hour data in a single database. OLO worked with numerous offices in MCFRS to accumulate and reconcile databases. Some specific examples include:

- Employees can change schedule types without it being reflected in the databases;
- Employee time was accounted for differently in Telestaff and MCTime; and
- A compilation of MCFRS' MIDS list was incomplete.

Additionally, because data on injury-related hours in the County have not been tracked consistently across time, OLO was unable to compare FY12-13 data with previous periods.

Overtime Costs. When uniformed fire personnel are on disability leave or on light duty, MCFRS may have to "backfill" with overtime in order to meet minimum staffing requirements. However, each hour of leave, including injury-related hours, does not necessarily result in one hour of overtime. MCFRS does not currently track overtime "backfill" by the reason, such as annual leave, disability leave, or County events requiring more staff.

Other Injury-Related Data. OLO also found that other County departments do not track and monitor processing dates related to employee injuries:

- *Workers' Compensation.* The dates of the medical treatment authorization request/approval and information on denials of claims that are eventually approved are not tracked.
- *Retirement Disability.* MCERP does not track the application or approval dates of employees who retire on disability.

CHAPTER VI. Recommendations

Injuries and illnesses to MCFRS uniformed personnel may affect an individual employee's ability to complete required job duties as well as the organization's staffing and overtime needs. In order to aid the Council's understanding and oversight of employee injuries and injury-related leave in MCFRS, OLO suggests the following three recommendations for Council consideration.

Recommendation #1: **Request that the County Executive identify and implement strategies for reducing the time it takes employees who are on disability leave or light duty for long periods to return to work particularly, the top 5% of disability leave and light duty users.**

OLO found that a small group of employees, the top 5% of users, account for a significant number of disability (including temporary disability) leave and light duty hours, shown below.

Type of Hour	All Hours	Hours by Top 5% of Users	Percent of All Hours Accounted for By Top 5% of Users
All Injury-Related Hours	249,074	121,562	49%
Disability and Temporary Disability Hours	172,871	81,882	47%
Light Duty Hours	76,203	39,681	52%

OLO understands that it is impossible to set rigid standards for the amount of disability leave or light duty an employee may need; the amount of disability leave and light duty taken by an individual employee is influenced by the interaction of personal, organizational, and medical factors. This is especially true with the unique nature of the job responsibilities of a firefighter and the staffing requirements of MCFRS.

OLO recommends that the Chief Administrative Officer (CAO) look specifically at those employees who utilize large amounts of disability and/or light duty and discuss potential strategies that may help them return to work in a safe and timely manner. With the goal of limiting absence, controlling costs, and retaining a healthy and productive workforce, the CAO could implement strategies and policies that are tailored to address those employees on long-term disability leave and light duty. These strategies could include tracking data on long-term disability leave use and light duty assignments among MCFRS employees (including types of injuries and any delays in receiving approval for medical treatment) and increased monitoring of such cases. OLO recommends that the Council request a status report on any progress by the end of the fiscal year.

Recommendation #2: **Request that the Executive Branch closely monitor the newly contracted third-party administrator (TPA) and provide the Council with updates on the administration of the County's Workers' Compensation Program, particularly the processing times of claims.**

In July 2012, the County contracted for a new third-party administrator (TPA) to administer the Workers' Compensation Program because the previous TPA was not providing services at the level required in the contract. During interviews, OLO heard specific concerns about a lack of efficiency, lost documentation, high denial rates, and noncompliance with Workers' Compensation Commission decisions. According to staff, the transition was difficult, but the administration appears to be improving.

To oversee the TPA, the Office of Risk Management completes regular reviews of payment information, performance indicators, and quality assurance measures. In addition, arising out of the last round of collective bargaining negotiations during which concerns continued to arise, Risk Management has established monthly meetings with FROMS and the IAFF to discuss issues and concerns regarding the Program. In addition, Risk Management has hired a coordinator who will provide oversight of the claims process and is working with CorVel to develop additional data reports.

Because of the past issues and the enlisting of a new TPA, OLO recommends the CAO closely monitor and update the Council on the administration of the Workers' Compensation, particularly the processing times of claims. The Council should discuss with Executive staff strategies to resolve new or continuing issues with the administration of workers' compensation.

In addition, OLO found some key data points that are currently not tracked regarding workers' compensation claims, including the application/approval dates of medical care authorization and whether or not an approved claim was earlier denied. OLO recommends that the Council ask the CAO to begin tracking and monitoring this information.

Recommendation #3: Request that MCFRS review its data management systems and practices to improve uniformity and reporting capabilities. The County Executive should report back to the Council on progress. OLO also recommends that the County Executive report to the Council the findings of the CountyStat analysis of TeleStaff when completed.

OLO found that MCFRS' data management system was incapable of readily producing data on comprehensive injury-related leave and light duty hours. MCFRS does not have a single database that can track all information on injury-related leave and light duty. OLO also found that the data within various databases was inconsistent, particularly when accessing historical data. In addition, OLO found that MCFRS does not track the number of overtime hours based on the cause of the overtime, such as the number of hours that resulted from disability leave and light duty.

OLO recommends that the Council ask the CAO to assess MCFRS' data management systems and practices. The review should identify key data points across all databases that should be consistent for ongoing management of the department as well as for reporting and monitoring of overall data. The Council should discuss with Executive staff the merits and concerns of consolidating MCFRS data, especially in regards to overtime use. OLO recommends that the Council ask for a report back from the CAO on the findings of this assessment by the end of the fiscal year.

Further, during a recent Council Committee worksession, Executive staff reported that CountyStat is working closely with MCFRS to analyze the department's scheduling system, TeleStaff. Staff stated that a report on this analysis will be completed by the end of FY13. OLO recommends that the Council ask the CAO for a briefing on the outcomes of this study.

CHAPTER VII. Agency Comments on Final Draft

The Office of Legislative Oversight circulated a final draft of this report to the Chief Administrative Officer for Montgomery County. OLO appreciates the time taken by agency representatives to review the draft and provide comments. OLO's final report incorporates technical corrections and comments provided by agency staff.



OFFICES OF THE COUNTY EXECUTIVE

Isiah Leggett
County Executive

Timothy L. Firestine
Chief Administrative Officer

MEMORANDUM

November 21, 2013

TO: Chris Cihlar, Director, Office of Legislative Oversight

FROM: Timothy L. Firestine, Chief Administrative Officer *Timothy L. Firestine*

SUBJECT: Draft Report – Injuries, Injury-Related Leave, and Overtime in the Montgomery County Fire and Rescue Service

I am in receipt of your draft report dated October 30, 2013, reviewing injuries, injury-related leave, and overtime in Montgomery County's Fire and Rescue Service. It is a thorough study of our process, and I am pleased that OLO found no indication that those MCFRS members who work a significant amount of overtime are any more likely to injure themselves or end up on disability.

Below are specific responses to your recommendations:

OLO Recommendation #1

Request that the County Executive identify and implement strategies for reducing the time it takes employees who are on disability leave or light duty for long periods to return to work; particularly, the top 5% of disability leave and light duty users.

CAO Response to OLO Recommendation #1

Fire and Rescue Occupational Medical Services (FROMS) is taking a more proactive approach with the Third Party Administrator (TPA) and Risk Management to review and discuss individual work-related injury cases. MCFRS will work with Risk Management to continue or implement the following procedures to ensure injured firefighters are returned to full duty in an expeditious manner:

- MCFRS and the TPA will continuously monitor employee treatment plans and medical procedures to ensure employees are returned to work in a timely manner in accordance with medical benchmarks. In addition, FROMS, the TPA, and the County ADA Coordinator will collaborate in order to monitor and properly handle individual cases in accordance with County procedures.

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- FROMS will work with the TPA to schedule Independent Medical Evaluations (IMEs) when an employee has exceeded the normal medical benchmarks established for their specific injuries in order to determine if the employee should be in a light-duty or no-duty status. Based on the IME, FROMS will be able to recommend a course of treatment with the goal of returning the employee to work as quickly as possible.
- If it is determined that an employee has exceeded medical guidelines for return to full-duty, or the current medical treatment is not achieving positive results, MCFRS, FROMS medical staff, and the TPA will meet to discuss alternative treatment plans to ensure an expedient return to full-duty. If it is determined that the employee will not be able to return to work in a full-duty status and has received permanent restrictions, MCFRS will initiate the disability retirement process, or, in cases where a disability retirement is not appropriate, MCFRS will initiate a separation action.
- MCFRS will continue to inform the employee's physician that light-duty is available and that MCFRS can accommodate most work restrictions. This ensures that private physicians are aware that MCFRS has light-duty assignments available.
- The TPA established a fax line solely dedicated for medical providers to submit prescriptions for tests and referrals to specialty physicians. With the implementation of the fax line, the time to receive authorization has been cut significantly and has allowed FROMS to forward the appropriate requests for treatment authorization, as well as inform providers or injured employees of the process, in an efficient manner.

OLO Recommendation #2

Request that the Executive Branch closely monitor the newly contracted third-party administrator (TPA) and provide the Council with updates on the administration of the County's Workers' Compensation Program, particularly the processing times of claims.

CAO Response to OLO Recommendation #2

Deficiencies of the previous contractor seem to be mischaracterized in this report. Please note that the contractor's replacement was not due to lost documentation or high denial rates. The issue was service delivery as monitored through the measurement of key performance indicators (KPI) and complaints regarding service delivery.

Processes currently in place that increase efficiencies in the services include:

- Online and telephonic claim reporting available 24/7 ensures quick reporting and initial treatment.
- Required telephone contact by the TPA with the injured employee, immediate supervisor, and medical provider within 24 hours of receipt of a newly reported injury or illness sets the stage for uninterrupted treatment on accepted claims.

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- Provision of immediate treatment and prescriptions without cost or upfront payments. Information regarding obtaining these services is available at www.mcsip.org and employees are encouraged to utilize this tool. Additionally, employees not represented by legal counsel have the ability to contact their claims professional to receive guidance on available services and explanation of benefits.
- A Workers' Compensation Coordinator is available within the Division of Risk Management and the contact information will be broadcast soon as well. The Coordinator will assist injured employees and supervisors by working with the TPA and FROMS to facilitate the return to work process.
- Compensability decisions are made within 14 business days of receipt of the injury/illness report.
- Indemnity payments on compensable claims are made within five business days of receipt of appropriate documentation.
- Nurse case managers are utilized to ensure proper handling of the medical aspects of the claim. They are available to act as a liaison and advocate for injured employees. They are trained in workers' compensation issues and are certified by the State of Maryland. Their primary goal is to ensure the employee is receiving timely and effective treatment.
- A dedicated fax line is provided for treatment authorizations. Treatment requests made to this line are monitored for timely response, as review determinations must be made within two (2) business days of receipt of the necessary information on a proposed admission or treatment, and within one (1) business day from the date of determination, telephonic notification is made to the employee, treating physician, ordering provider, or facility rendering service.
- The TPA provides guidance to doctors and attorneys in the use of the fax line and the requirements for a complete medical treatment authorization request.
- Results of performance measures are monitored weekly, monthly and quarterly by various management personnel. Oversight of the TPA is provided by the general contractor who directs the program, the Program Manager, and the Risk Manager.
- The County contracts for biennial claims audits to assess the performance of the third party claims administrator. The results of these audits are used to improve the efficiency in process, procedure, and workflow of the Workers' Compensation program.
- A continuous process improvement method is employed in working with the current contractor, TPA, and affected departments.
- Monthly meetings between Risk Management, IAFF, and FROMS have been established to identify and discuss any current situations or rising issues.
- Discussions are held with the Public Safety Managers' Work Group in order to identify issues and craft solutions.
- Additional discussions are held by OMB in their Cluster meetings.

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In conclusion, it is important to note that processing times are primarily influenced by medical condition, doctor availability, and their provision of timely reports. It is not a direct reflection on the services provided by the TPA. This time frame is impacted by whether the claim is contested or is a rebuttable presumption. The State of Maryland does not have a mechanism to "Delay" a claim; claims of the nature mentioned must be put into "Denial" status in order to allow time for investigation.

OLO Recommendation #3

Request that MCFRS review its data management systems and practices to improve uniformity and reporting capabilities. The County Executive should report back to the Council on progress. OLO also recommends that the County Executive report to the Council the findings of the CountyStat analysis of TeleStaff when completed.

CAO Response to OLO Recommendation #3

MCFRS will begin to evaluate the effectiveness of the MCFRS data management systems with regard to both uniformity and reporting. MCFRS will work with CountyStat to assess the specific shortcomings of each system from data recordation and reporting standpoints, identifying areas where there is misalignment that results in inconsistent reporting and where improvements will result in the most useful data to inform departmental management decisions.

The current CountyStat analysis of TeleStaff is focused on scheduling practices that contribute to Workforce Availability and overtime levels, and the reporting capabilities of the system. This study will broaden to encompass the concerns brought to light by OLO, specifically the connection between TeleStaff and the other data management systems with which it communicates, and why employee time may be accounted for differently in these systems.

Thank you for the opportunity to respond to this draft, and for your thorough study of our program. If you have any questions or need additional information, please feel free to contact Assistant Chief Administrative Officer Fariba Kassiri.

TLF:ds

cc: Fariba Kassiri, Assistant Chief Administrative Officer
Steve Lohr, Chief, Montgomery County Fire and Rescue Service
Joseph Beach, Director, Department of Finance
David Gottesman, CountyStat Manager